

Appl. No. 10/670,019
Amdt. Dated December 6, 2005
Reply to Office Action of September 6, 2005

• • R E M A R K S / A R G U M E N T S • •

The Official Action of September 6, 2005 has been thoroughly studied. Accordingly, the changes presented herein for the application, considered together with the following remarks, are believed to be sufficient to place the application into condition for allowance.

By the present amendment claim 1 has been changed to recite that the insertion space means has a non-sealable opening.

In addition, claim 3 has likewise been changed to recite that the insertion space defines a non-sealable pocket opening.

Support for these limitations can be readily found in the drawings in which the openings for the insertion space/pocket are depicted as being non-sealable.

Also by the present amendment non-elected claims 5-10 have been canceled without prejudice or disclaimer. Applicants preserve their right to pursue patent protection for the subject matter of the non-elected claims by filing one or more continuation/divisional application(s) during the pendency of the present application.

Entry of the amendments to the claims is respectfully requested.

Claims 1-4, 11 and 12 remain pending in the present application.

Claims 1-4 stand rejected under 35 U.S.C. §102(b) as being clearly anticipated by U.S. Patent No. 4,808,175 to Hansen.

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Claims 11 and 12 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Hansen in view of Design Patent No. 343,233 to Lanmon et al.

For the reasons set below it is submitted that all of the pending claims are allowable over the prior art of record and therefore, each of the outstanding rejections should properly be withdrawn.

Favorable reconsideration by the Examiner is earnestly solicited.

The Examiner has relied upon Hansen as teaching:

...a disposable article (Figure 1 and Column 2, lines 15-23), with a pouch 14, attached to the moisture proof-backing panel 11 that extends over the front, intermediate and rear sections of the diaper. The pouch 14 taught by Hansen as cover sheet which is also shown in Figure 1, that is *attached* to the moisture proof back panel (or backsheet) of the diaper defining the pouch. Elastic members taught by Hansen are illustrated in Figure 1 as well, along the longitudinal side edges of the diaper.

As stated in the Title, Hansen is directed to a "Disposable Diaper and Wet Wipe Pad Package."

In Hansen a "moisture proof and odor impermeable bag 14" is attached by adhesive 12 to moisture proof backing panel 11 of the diaper.

Hansen teaches that: "[t]he mouth opening 16 of the bag is tightly sealed against loss of moisture from the [wet wipe] pads" contained therein.

In addition, Hansen teaches:

Sealing means of any suitable type may be employed, having due regard for the fact that the bag 14 must be resealed following its being turned inside out after the soiling and the removal of the diaper from an infant and after use of the wet wipe or wipes 15 originally sealed in the bag.

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In contrast to Hansen, applicants' insertion space/pocket is not designed nor configured to be a moisture proof sealed compartment.

Accordingly, applicants' insertion space/pocket is provided with a non-sealable opening as shown for example in Figs. 2 and 4 and recited in independent claim 1.

Inasmuch as Hansen requires a moisture proof seal on bag 14 for purposes of storing wet wipes 15 therein and further requires the bag to be sealed after use of the diaper when the bag 14 is turned inside out with the soiled diaper disposed therein, it is submitted that Hansen cannot be relied upon as anticipating applicants' claimed invention as required under 35 U.S.C. §102.

Moreover, it would be improper to modify Hansen to provided bag 14 with a non-sealable opening, since such a modification would destroy the express teachings of Hansen.

The Examiner has relied upon Lanmon et al. as disclosing:

...a diaper with a distinguished coloring on the outer cover with a pocket without said coloring. The pocket has containment indicators such as "Wipe and Powder Puff" located thereon.

In combining the teachings of Hansen and Lanmon et al. the Examiner takes the position that:

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hansen's pocket and backsheet with a design or colored feature and an indicator on the pocket as taught by Lanmon, to distinguish the backsheet from the pocket, as well as, provide indication of the contents of the pouch.

The manner in which the Examiner has relied upon Lanmon et al. does not address or overcome the differences between Hansen and the present invention.

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That is, the combination still requires that the bag 14 of Hansen has a sealable opening which is excluded from applicants' claimed invention.

It is noted that Lanmon is a Design patent and therefore does not teach any functional or structural features. Nevertheless it can reasonably be assumed that if "wipes" or "powder puffs" are contained in the pocket(s), the pocket(s) would necessarily have to be sealed to present the "wipes" from drying out and the "powder puffs" from becoming damp.

Accordingly, it is submitted that the teachings of Hansen and Lanmon et al. cannot be combined in any manner to render applicants' invention obvious.

Based upon the above distinctions between the prior art relied upon by the Examiner and the present invention, and the overall teachings of prior art, properly considered as a whole, it is respectfully submitted that the Examiner cannot rely upon the prior art as required under 35 U.S.C. §102 as anticipating applicants' claimed invention.

Moreover the Examiner cannot rely upon the prior art as required under 35 U.S.C. §103 to establish a prima facie case of obviousness of applicants' claimed invention.

It is, therefore, submitted that any reliance upon prior art would be improper inasmuch as the prior art does not remotely anticipate, teach, suggest or render obvious the present invention.

It is submitted that the claims, as now amended, and the discussion contained herein clearly show that the claimed invention is novel and neither anticipated nor obvious over the teachings of the prior art and the outstanding rejection of the claims should hence be withdrawn.

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Therefore, reconsideration and withdrawal of the outstanding rejection of the claims and an early allowance of the claims is believed to be in order.

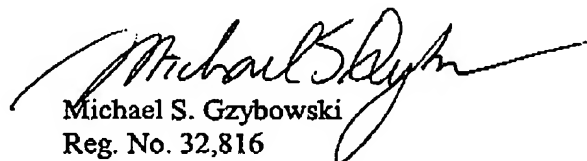
It is believed that the above represents a complete response to the Official Action and reconsideration is requested.

The prior art made of record on page 4 of the Office Action has been noted, but is not believed to be particularly relevant to applicants' claimed invention.

If upon consideration of the above, the Examiner should feel that there remain outstanding issues in the present application that could be resolved, the Examiner is invited to contact applicants' patent counsel at the telephone number given below to discuss such issues.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 12-2136 and please credit any excess fees to such deposit account.

Respectfully submitted,



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